

BOARD OF APPEALS CASE NO. 4713

BEFORE THE

APPLICANTS: Jon & Julie Herbert

ZONING HEARING EXAMINER

REQUEST: Variance to construct a 39  
foot high dwelling; 2823 Glen Keld Court,  
Baldwin

OF HARFORD COUNTY

Hearing Advertised

Aegis: 5/21/97 & 5/28/97

Record: 5/23/97 & 5/30/97

HEARING DATE: July 23, 1997

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### ZONING HEARING EXAMINER'S DECISION

The Applicants, Jon and Julie Herbert, appeared before the Hearing Examiner requesting a variance to construct a single-family in the Agricultural District higher than the permitted 35 feet.

The subject parcel is located at 2823 Glen Keld Court in the Fourth Election District. The parcel is identified as Parcel No. 40, in Grid 3-A, on Tax Map 47. The parcel contains 3.187 acres, more or less, all of which is zoned Agricultural.

Mr. Jon Herbert appeared and testified that he is requesting a variance to the maximum allowable height of 35 feet for a single-family dwelling in an Agricultural District. The Applicant said that, due to topographic conditions, the dwelling will be approximately 39 feet high, with an average height of 38.25 feet. The witness said that the front of the dwelling is less than 35 feet above grade but due to the topography of the parcel, the rear of the parcel exceeds the maximum allowable height. The Applicant said the subject parcel is unique due to the topography and that the parcel falls from front to back, and he referred to the photographs contained in the file to show the topographic conditions. The witness said he did not feel the variance would be substantially detrimental to adjacent properties or materially impair the purpose of the Code because the dwelling on the adjoining parcel actually appears to be higher because of the topographic change than the dwelling on the Applicant's parcel. The Applicant also pointed out that no protestants appeared in opposition to the request.

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The Staff Report of the Department of Planning and Zoning recommends conditional approval and provides:

"In the subject case, the necessity for the increase in height appears to be a combination of roof and severe terrain conditions of the property. The 4 foot height difference is minor in nature, and the requested variance should have no adverse impact on the intent of the Code and/or surrounding neighborhood. Since the grade where the dwelling is located is much lower than the road grade, the excess height is not easily detectable."

**CONCLUSION:**

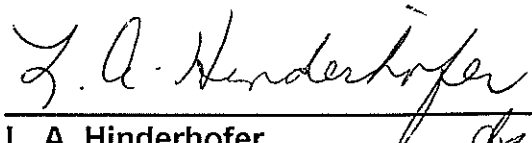
The Applicants are requesting a variance to Section 267-34(C), Table II, of the Harford County Code, to allow a dwelling to exceed the maximum permitted height of 35 feet. The Applicants are proposing a 39 foot building height.

The uncontradicted testimony of the Applicant was that there are unique topographic conditions on the parcel, as verified by the photographs contained in the file and the Staff Report. The Applicant also testified that the front of the dwelling does not exceed the permitted 35 foot maximum height. Additionally, the Applicant testified that he did not feel that the variance would be substantially detrimental to adjacent properties or materially impair the purpose of the Code because the topographic conditions which exist on the parcel make the Applicant's dwelling appear not as tall as the dwelling on the adjoining parcel.

It is the finding of the Hearing Examiner that the subject parcel contains unique topographic conditions and that approval of the variance will not be substantially detrimental to adjacent properties or materially impair the purpose of the Code.

Therefore, it is the recommendation of the Hearing Examiner that the requested variance be approved, subject to the condition that the dwelling does not exceed 39 feet in height when complete and that the Applicants revise the building permit to reflect the correct height of the dwelling.

Date AUGUST 1, 1997

  
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L. A. Hinderhofer  
Zoning Hearing Examiner